

1 ELDA M. SIDHU
2 General Counsel
3 Nevada Bar No. 7799
4 DEBRA L. PIERUSCHKA
5 Assistant General Counsel
6 Nevada Bar No. 10185
7 UNIVERSITY OF NEVADA, LAS VEGAS
8 4505 S. Maryland Parkway, Box 451085
9 Las Vegas, Nevada 89154-1085
10 Telephone: (702) 895-5185
11 Facsimile: (702) 895-5299
12 *Attorneys for Defendants*

8 **IN THE UNITED STATES DISTRICT COURT**
9
10 **FOR THE DISTRICT OF NEVADA**

11 DARREN HEYMAN,
12 Plaintiff,

13 vs.

14 THE STATE OF NEVADA EX REL.
15 BOARD OF REGENTS FOR THE
16 NEVADA SYSTEM OF HIGHER
17 EDUCATION ON BEHALF OF THE
18 UNIVERSITY OF NEVADA, LAS
19 VEGAS; NEAL SMATRESK; DONALD
20 SNYDER; STOWE SHOEMAKER,
21 RHONDA MONTGOMERY; CURTIS
22 LOVE; SARAH TANFORD; PHILLIP
23 BURNS; KRISTIN MALEK; LISA MOLL-
24 CAIN; AND DOES I - X INCLUSIVE,

25 Defendants.

Case No.:

26 **NOTICE OF REMOVAL OF ACTION**
27 **PURSUANT TO 28 U.S.C. § 1441 -**
28 **FEDERAL QUESTION**

22 **TO: THE CLERK OF THE ABOVE-ENTITLED COURT**

23 **PLEASE TAKE NOTICE** that Defendants, the State of Nevada ex rel. Board of Regents
24 of the Nevada System of Higher Education on behalf of the University of Nevada, Las Vegas
25 (“University” or “UNLV”), Neal Smatresk (“Smatresk”), Donald Snyder (“Snyder”), Stowe
26 Shoemaker (“Shoemaker”), Rhonda Montgomery (“Montgomery”), Curtis Love (“Love”), Sarah
27 Tanford (“Tanford”), Phillip Burns (“Burns”), Kristin Malek (“Malek”), and Lisa Moll-Cain

1 ("Moll-Cain") (collectively "Defendants"), hereby removes the state court action described below
 2 to the United States District Court for the District of Nevada. In support of this removal,
 3 Defendants state the following:

4 1. Served Defendants have been named as parties in a case commenced by Darren
 5 Heyman ("Plaintiff") on May 11, 2015, in the Eighth Judicial District Court for the State of
 6 Nevada, identified by Case No. A-15-718189-C (the "State Court Action"). On June 10, 2015,
 7 Plaintiff filed an Amended Complaint in the State Court Action wherein he added two new claims,
 8 one of which falls under federal law. A true and correct copy of the *Amended Complaint* filed in
 9 the State Court Action is attached as **Exhibit A**.

10 2. Plaintiff, in his complaint, alleges sexual harassment under Title IX of the Education
 11 Amendments Act of 1972 ("Title IX"), as amended, along with Nevada Fair Employment Practices
 12 Act – Sexual Harassment, as amended. Plaintiff also alleges, thirteen (13) pendent state law
 13 claims i.e. defamation, invasion of privacy, civil conspiracy, concert of action, intentional
 14 infliction of emotional distress, breach of contract, breach of implied covenant of good faith and
 15 fair dealing – contractual breach, breach of the implied covenant of good faith and fair dealing –
 16 tortious breach, constructive fraud, deceit or misrepresentation, detrimental reliance, fraud in the
 17 inducement, and fraud/intentional misrepresentation.

18 3. Pursuant to Nev. Rev. St. §41.031(a)(b), service of the Summons and Complaint on
 19 UNLV must be served on the Attorney General's Office in Carson City and the Chancellor of the
 20 Nevada System of Higher Education. On May 13, 2015, the Chancellor's Office was served with
 21 the Summons and Original Complaint. A true and correct copy of the Affidavit of Service is
 22 attached hereto as **Exhibit B**. The Attorney General's Office was served with the Summons and
 23 Original Complaint on May 21, 2015. A true and correct copy of the Affidavit of Service is
 24 attached hereto as **Exhibit C**. Defendant Moll-Cain was served with the Summons and Complaint
 25 on May 13, 2015. A true and correct copy of the Affidavit of Service is attached hereto as **Exhibit**
 26 **D**. Defendant Malek was served with the Summons and Complaint on May 15, 2015. A true and
 27 correct copy of the Affidavit of Service is attached hereto as **Exhibit E**. Defendants Burns,
 28 Tanford, Montgomery, and Snyder were served with the Summons and Complaint on May 15,

1 2015. A true and correct copies of the Affidavit of Services are attached hereto as **Exhibit F**.
2 Defendants Love and Shoemaker were served with the Summons and Complaint on May 18, 2015.
3 A true and correct copy of the Affidavit of Service is attached hereto as **Exhibit G**. Defendant
4 Smatresk was served with the Summons and Complaint on May 19, 2015. A true and correct copy
5 of the Affidavit of Service is attached hereto as **Exhibit H**.

6 On June 10, 2015, Defendants were served with Plaintiff's Amended Complaint wherein
7 for the first time federal jurisdiction was raised. A true and correct copy of the Affidavit of
8 Service is attached hereto as **Exhibit I**.

9 All named Defendants join in this Notice of Removal.

10 4. No other proceedings have taken place in the State Court Action.

11 5. Defendants respectfully submit that this Court has original jurisdiction over the
12 subject matter of this action under the provisions of 28 U.S.C. §1331, in that this is an action
13 arising under federal statute and/or the United States Constitution. Therefore, pursuant to 28 U.S.
14 C. §1441 (a)-(b), the Defendants are entitled to remove this action to this Court. Additionally, this
15 Honorable Court has jurisdiction over the pendent state law claims pursuant to 28 U.S.C.
16 §1441(c); 28 U.S.C. §1367.

17 6. This Court is the proper venue based upon the allegations within Plaintiff's
18 complaint pursuant to 28 U.S.C. §1441(a), which provides, in pertinent part, the following:

19 Except as otherwise expressly provided by Act of Congress, any
20 civil action brought in a State court of which the district courts of the
21 United States have original jurisdiction, may be removed by the
22 defendant or the defendants, to the district court of the United States
for the district and division embracing the place where such action is
pending.

23 7. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b).

24 8. A true and correct file stamped copy of this Notice of Removal will be filed in the
25 State Court Action.

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1 Based upon the foregoing, Defendants remove the attached action, to this Court.
2 DATED: JUNE 29, 2015.
3

4 /S/ DEBRA L. PIERUSCHKA
5 ELDA M. SIDHU

6 General Counsel

7 Nevada Bar No. 7799

8 DEBRA L. PIERUSCHKA

9 Assistant General Counsel

10 Nevada Bar No. 10185

11 UNIVERSITY OF NEVADA, LAS VEGAS

12 4505 S. Maryland Parkway, Box 451085

13 Las Vegas, Nevada 89154-1085

14 Telephone: (702) 895-5185

15 Facsimile: (702) 895-5299

16 *Attorneys for Defendants*

17 **CERTIFICATE OF SERVICE**

18 I HEREBY CERTIFY that on the 29TH day of JUNE, 2015, I served the foregoing
19 **NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441 – FEDERAL**
20 **QUESTION** via both electronic service pursuant to N.E.F.C.R. Rule 9 and Administrative Order
21 14-2, and U.S. Mail, postage prepaid on this date and to the address(es) shown below:
22

23 Darren Heyman
24 830 Carnegie St. #1324
25 Henderson, NV 89052
26 Telephone: (702) 576-8122
27 Facsimile: (702) 977-8890
28 *Plaintiff, in pro se*

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